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AIDS
FOR
STUDENTS OF CONVEYANCING.

AIDS

FOR



STUDENTS OF CONVEYANCING.

BY

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INTRODUCTION.

THE object of this Work is to point out a course of study of the Law of Real Property; to give a list of the principal Deeds and Instruments respecting which Conveyancers are consulted; and to refer Students, under separate titles, to some of the works from which they may acquire information which will be requisite for practice. I have added a few other subjects, and an abridgment, which I have made, of the Dissertation concerning Ancient Charters and Instruments in Madox's *Formulare Anglicanum*, as it will be instructive and interesting, that the forms of some of the Ancient Deeds should be known.

When any particular case is brought under the Student's attention, he should refer to the cases cited in the Text Books. In a general course of reading reference to every case would be impossible.

Due attention must be given to the Statutes and Cases which may be subsequent to the dates of the works to which I have referred.

It will, I trust, be kept in view, that I only profess to have written Aids for Students, who should bear in mind the remarks of MR. CHARLES BUTLER, see his *Reminiscences*, vol. 1, p. 57, "that the modifications of property received into the Law of England are numerous and refined, and years of profound study are necessary to enable a person to acquire a full and accurate knowledge of their nature and incidents."

Mr. LONG has observed, see his first Discourse, delivered in the Middle Temple Hall, in November, 1846, that "the study of English law is sometimes, at first, exceedingly repulsive, because of the confusion and perplexity that pervade it; the difficulty is increased by the mode in which the study is generally commenced. But he who comes to the study of any particular system of law, with a competent knowledge of those principles which are involved in all legal systems, cannot have the same difficulty as he who comes to it without any preparation; nor is he likely to view it with the same distaste. In our own system he may discover, beneath the uncouth phraseology, half barbarous terms, and quaintly expressed rules, many of those general principles with which he is already familiar, and which must and do exist in all systems of law, by whatever terms they are expressed and under whatever forms they are obscured."

"The two modes in which a knowledge of our law is now chiefly acquired are by reading and by attendance at the chambers of a practitioner, where

law in some one or more of its branches is learned by actual practice. Reading is necessary, and, if well directed, may be efficiently combined with the more necessary and more useful labour of working upon the matter of law as it is presented in actual practice. The opportunities which a student thus enjoys of seeing the kind of business which he himself at some time will have to transact, and the mode in which it is managed, are not only essential, but the best parts of his legal discipline. If we had to choose between a system in which the instruction was purely theoretical, and our own, there could be no hesitation in giving the preference to our own, the object being to qualify a man to do his client's business well; and a man can only do the actual business of law well by working at the practical application of the law."

"But, whatever assistance a student may derive in chambers towards understanding a particular case of practice, this part of his instruction has, from the nature of the case, little method in it. It is not, I believe, considered the office of his instructor to give his pupils a regular course of instruction in that branch of the law which he professes; both want of time and other circumstances must generally render this impossible. But the successful study of the actual business of law presupposes a certain kind of knowledge in the pupil; and, if he has this knowledge, or if he can acquire it during his attendance in chambers, his education as a lawyer is good."

I hope that the course which I have suggested may assist to remove some of the difficulties alluded to by Mr. Long, so far as his remarks may be applied to the study of Conveyancing, and may facilitate the practical working of Students, by affording an easy reference to works relating to subjects on which they must be engaged. The Digests of Comyn, of Cruise, or of Crabb, Chitty's General Practice of the Law, or Jacob's or Tomlin's Law Dictionary, will probably supply information which may not be found in the works to which I have referred, and when those works are considered to be abstruse, such of the subjects as are treated of in Cruise's Digest may be found to be there simplified.

If this volume is interleaved, I think it will be convenient for noting, under separate titles, points and cases as they arise, and the business attended to by Pupils in a Conveyancer's Chambers, of which notes ought to be kept; for, by this course, the nature of the business will be impressed on the memory, or will readily be found when it may be required for practice.

SUGGESTIONS

FOR A

COURSE OF STUDY OF THE LAW OF REAL PROPERTY.

THE following course of Study of the Law of Real Property will, I think, be found to be useful (a).

Blackstone's Commentaries, by Chitty, the latest edition, published by Sweet, should be read, and distinct notions should be found to have been obtained (see the 1st volume of Blackstone's Commentaries, § 3,) of the Common Law, the Statute Law, the Civil Law, the Canon Law, and the Law of Custom.

The history of the Common Law and Statute Law should be studied in Hale's History of the Common Law by Runnington. The notes, pp. 31, 55, and 201, may be omitted.

On the Civil Law, Mr. Long's two discourses delivered in the Middle Temple Hall, in 1846, should be read. In those discourses Students will

(a) I have not generally used legal abbreviations, as I intend this work to be directory even to beginners.

find whence the excellence of the Roman Law arose, and an interesting historical account of it.

Information as to the jurisdiction of the Superior Courts, in which the laws are administered, should be acquired. This subject is treated of in the 2nd volume, part 4, of Chitty's General Practice of the Law; see also the statute 5 Vict. c. 5, by which the Equity side of the Court of Exchequer was abolished, and power was given to appoint two additional Vice Chancellors. As to the Privy Council, see the statutes 3 & 4 Vict. c. 65, § 17; 3 & 4 Vict. c. 86, § 15; 3 & 4 Vict. c. 86, § 16, and 7 & 8 Vict. c. 69: and for the Courts of Bankruptcy and Insolvency, see *infra*, under these titles. If any information is required on the Law of the Inferior Courts, Moseley's work on this subject may be referred to, and for the County Courts see 9 & 10 Vict. c. 95.

The establishment of the Courts may be traced further back than in Chitty, by referring to Madox's History of the Exchequer, and Spence on the Equitable Jurisdiction of the Court of Chancery, and I recommend this course and a perusal of Reeve's History of the English law as a profitable employment for leisure hours.

With respect to the several tenures under which hereditaments (*a*) may be held, Mr. Hargrave ob-

(*a*) Tenement is a large word, to pass not only lands and other inheritances which are holden, but also offices, rents, commons, profits, apprender out of lands, and the like; but hereditament is the largest word of all in that kind; for whatsoever may be inherited is an hereditament, be it corporeal or incorporeal, real or personal, or mixed. *Coke upon Littleton*, 6 *a*.

serves, in his note to Coke upon Littleton, 64 *a*, "It is scarcely possible to have a just and proper idea of our law of Tenures, the greater part of which is founded on principles strictly feudal, without the aid of some previous information concerning the origin of feuds in general, and the time and manner of their introduction into this country."

The notes on Feuds, in Coke upon Littleton, by Hargrave and Butler, 64 *a*, and 191 *a*, should be read, and, by reference to the works mentioned in those notes, and in Spence on the Equitable Jurisdiction of the Court of Chancery, Students may readily find any further information which they may require.

Littleton's Tenures in the edition by Tomlins (*a*); with reference to his notes, should then be studied, but so that every section may be treated as a proposition to be thoroughly understood and remembered.

I recommend the following order of reading Littleton's Tenures, because the previous course will have prepared Students for it (*b*). Escuage, Knight's Service, Homage Ancestrel, Homage, Fealty, Grand Serjeanty, Petit Serjeanty, Frankalmoign, Tenure in Burgage, Socage, to be followed by that part of the Statute of 12 Charles 2, c. 24, which relates to certain of the above-mentioned tenures. The following

(*a*) Whenever I have subsequently referred to Littleton's Tenures, it is to this edition.

(*b*) The Norman French of Littleton being added in this work, if attended to, will facilitate the reading of the reports which are in that language, and as to which see the title Legal Language, *infra*.

subjects may then be studied in Littleton's Tenures, Tenant by Copy, Tenant per le Verge, Villenage; and, with the latter, Scriven on Copyholds by Stalman, from p. 37 to p. 90, Customary Freehold and Ancient Demesne, in the lastly mentioned work, from p. 561 to p. 600; and Robinson on Gavelkind and Borough English.

The Estates to which Hereditaments may be subjected, should then be studied in the following order:—In Littleton's Tenures, Tenant in Fee Simple, Tenant in Tail, with Hayes's Introduction to Conveyancing, from p. 130 to p. 222; and in Littleton's Tenures, Tenant in Tail after Possibility of Issue extinct, Tenant for Life, to be followed by Bisset on Estates for Life, p. 1 to 14, in which the nature of a Freehold Estate is explained; and in Littleton's Tenures, the following, Tenant at Will, Curtesy, Dower, Parceners, or Co-parceners, Joint Tenants, Tenants in Common, Tenant for Term of Years; and, in Watkins on Conveyancing, Tenant on Sufferance, Tenants by Entireties; and, in Bisset on Estates for Life, Estates pur Auter Vie, and Special Occupancy.

On the Descents of Estates, the 12th Chapter of Hale's History of the Common Law should be read, and 1 Hayes's Introduction to Conveyancing, from p. 310 to 322.

The Division of Estates into Legal and Equitable, and the nature of Uses, may then be commenced in the notes on Uses and Trusts in Coke upon Littleton, by Hargrave and Butler, 272 *a*, to be followed

by the first four Chapters in Hayes's Introduction to Conveyancing, and, if any thing is not understood, Saunders on Uses, or Gilbert on Uses by Sugden, should be referred to.

The subjects of Wills, and of Limitation of Actions, in 1 Hayes's Introduction to Conveyancing, and of Contingent Remainders, in the note 5, Martin's Conveyancing, p. 150, should then be read, and be followed by Sir Edward Sugden's Treatises of Powers, and Vendors and Purchasers, and Burton's Compendium of the Law of Real Property. Only a few pages of the latter Work should be read at a time, but the principal cases in the margin and notes of it should be referred to, and these cases (*a*) should be noted in a form well adapted for their being retained in the memory. I suggest that the point in the case should be stated concisely in one column, and the cases relating to it in another; thus, supposing the point to be whether a Trustee can disclaim by Deed.

Disclaimer by Trustee	}	BEGBIE v. COOK,
by Deed.		2 Bing. N. C. 70.

This collection of cases should be made in a book convenient for frequent reference. All notes on loose papers ought to be avoided. A methodical habit of making notes of books and cases is of great importance.

After Burton's Compendium, Fearn's Contingent Remainders should be studied.

(*a*) As an assistance to the Student when he first begins to read cases, I refer him to the titles Reports and Cases, and Legal Language, *infra*.

Together with Sir E. Sugden's Treatises, and the Works which I have recommended to be subsequently read, the several Deeds or Instruments and other subjects mentioned in p. 11 *et seq.* of this volume, may be studied with so much of the Works, to which I have referred, as may be necessary to understand them. I have frequently referred to more Works than one, in case points should not be found in those first mentioned; the index of one or more will frequently supply the omission of the others (*a*). I suggest that they should be taken in the following order,—Deed, Feoffment, Bargain and Sale, Inrolment of Deed, Registration, Lease and Release, Grant, Covenant to stand Seised, Lease, Fines and Recoveries, and the Deeds connected with them, Mortgage, Further Charge, Transfer of Mortgage, Re-conveyance of Mortgaged Estates, Receivership Deed, Settlement, Voluntary Settlement, Will, Partition Deed, Exchange, Annuity Deed, Release, Surrender, Assignment, Agreement, Appointment, Assignment and Merger of Terms, Contract, Confirmation, Disclaimer, Acts of Parliament, Stamps, Abstracts, Partnership Deed, Creditor Deed.

Students will after this be able to direct their own course of reading.

(*a*) I have arranged the subjects alphabetically in the following pages, in order that reference may be easily made to them.

A LIST
OF
THE PRINCIPAL SUBJECTS
RESPECTING WHICH
CONVEYANCERS ARE CONSULTED,
WITH REFERENCES TO WORKS RELATING TO THEM.

ABSTRACTS OF TITLE.

For a treatise of Abstracts, read 1 Martin's Conveyancing, p. 1 to 225, see also Sugden's Vendors and Purchasers under the title Abstracts: for points not found there, refer to 1 Jarman's Conveyancing, p. 1, and Preston on Abstracts. The discussion whether a title for sixty years is now to be required, see 1 Hayes's Introduction to Conveyancing, 280, has been determined by the case of *Cooper v. Emery*, 1 Phillips's Reports, 388.

ACKNOWLEDGMENT.

Forms of Acknowledgments will be found in 1 Jarman's Conveyancing, p. 243.

ACTIONS, LIMITATION OF.

See the title Limitation of Actions, *infra*.

ACTS OF PARLIAMENT, AND PARLIAMENTARY PROCEEDINGS.

A Treatise upon the Law, Privileges, Proceedings, and Usage of Parliament, by Thomas Erskine, May; and Macqueen's Practical Treatise on the Appellate Jurisdiction of the House of Lords and Privy Council, also, the Practice of Parliamentary Divorce, with a selection of leading cases thereon, will enable you to acquire the requisite knowledge on these subjects.

On the rules of Construction, the effect of the Preamble, and the subject of Statutes generally, you may refer to Dwarris on Statutes.

There are many valuable notes on such of the Statutes as are collected in the Work styled Evans's Statutes.

As to the proper mode of reciting or pleading a Statute, see 1 Blackstone's Commentaries by Hargrave, p. 85, n. 30.

For an explanation of Parliamentary Terms, and the proceedings on the stages of a bill in the Houses of Parliament, see part 2 of Dodd's Parliamentary Companion.

You will find a collection of the Private as well as Local and Personal Acts in Lincoln's Inn Library.

There is an Index to the Statutes from Magna Charta to 49 Geo. 3, by Raithby, and of the Private Statutes from 1727 to 1834 both inclusive, by Bramwell, and an Index and Digest of the Statutes by Crabb, and a Digest of the Public Statutes, from Magna Charta to 1 & 2 Geo. 4, with a Supplement to 6 Geo. 4, by Tyrrwhitt and Tyndale.

There is also an Index to the Statutes Public and Private, passed in the years 1801 to 1844 inclusive, compiled by order of the Select Committee on the Library of the House of Lords. There is a copy of it in Lincoln's Inn Library. I have seen copies of it on sale, although it is not published. The list of the Repealed Statutes in the lastly mentioned Index, under the title "Statutes Repealed" in part 1, p. 391 *a*, will be found to be useful. A Table of the Statutes, Public and Private, passed in every session, is published annually by, and may be purchased at the Queen's Printers, and thus the requisite additions may be made to the above mentioned Indexes (*a*).

The Standing Orders of both Houses of Parliament should be referred to.

As to the distinction between the Public General Acts and the Local and Personal Acts, see *Richardson v. Easto*, 15 Meeson's and Welsby's Reports, p. 244, *Barrett v. Cox*, 11 Jurist, 118.

(*a*) I have referred to more than one Index, that there may be a check upon omissions in some of these works.

ADMINISTRATION, LETTERS OF.

The learning on this subject will be found in Williams on the Law of Executors and Administrators: there are forms, pp. 345, 371.

AFFIDAVITS.

Persons should be sworn according to the ceremonies requisite by the religion which they profess, to render an oath binding; see 1 Phillipps on Evidence, pp. 22 and 23, where some of the forms are stated. As to affidavits in Chancery, and the mode for proving affidavits made out of this country to have been duly taken, see Daniell's Chancery Practice, 1435, and 1 Smith's Chancery Practice, p. 141.

There are some forms of affidavits used in Chancery in 2 Smith's Chancery Practice, p. 539, and, of those used in Common Law, in Chitty's Practical Forms, see, under the title Affidavits. Those relating to Conveyances by married women are in 2 Hayes's Introduction to Conveyancing, 225, *et seq.*

The 5 & 6 William 4, chapter 62, by which declarations are in certain cases substituted in the place of oaths, should be read, and for other statutes relating to oaths, see, under the title Oaths, the Indexes to the Statutes referred to *supra*, under the title Acts of Parliament.

AGREEMENTS.

On agreements and the construction of the 29 Charles 2, c. 3, usually styled "the Statute of Frauds," with the law relating to frauds connected with agreements, and part performance of them, see the index to Sugden's Vendors and Purchasers, under the titles "Agreements" and "Statute of Frauds:" refer also to 9 Geo. 4, c. 14.

Agreements for leases, prior to the time of the 7 & 8 Vict. c. 76, and 8 & 9 Vict. c. 106, coming into operation, will require particular attention, in order to distinguish them from actual leases: the doctrine and cases relating to this subject are stated in 4 Jarman's Conveyancing, p. 265. There is a treatise of agreements in 1 Jarman's Conveyancing, p. 277.

The 7 & 8 Vict. c. 21, has reduced the stamp duties on certain agreements.

For the distinction between cases in which a deed is required, and where a writing only may be sufficient, see 1 Jarman's Conveyancing, p. 282, *et seq.* Wood v. Leadbitter, 13 Meeson's and Welsby's Reports, 838. There are many forms in 1 Jarman's Conveyancing, 420; see also the title Contract, *infra*.

ALIENS AND DENIZENS.

Hansard's Treatise on the law relating to Aliens,

and Denization, and Naturalization, and the Supplement will supply information on this subject; see also the Law of Domicil by Dr. Phillimore.

ANCIENT DEMESNE.

See p. 8, *supra*.

ANNUITIES.

The subject of Annuities is treated of in 2 Jarman's Conveyancing, p. 1, and points not found there may be so in Lumley or Kelly on Annuities, 1 Martin's Conveyancing, 467, or 5 Martin's Conveyancing, 329. There are also observations on the Annuity Act in the Appendix to Sugden's Vendors and Purchasers.

Since in these transactions, more commonly than in any other, property is offered for a security which the law does not allow persons to assign, I may here direct attention to a note on this subject, in 5 Jarman's Conveyancing, pp. 212 to 232.

An annuity is frequently further secured by a Warrant of Attorney, on which a Defeazance is usually indorsed. For forms and affidavits relating to Warrants of Attorney see 2 Jarman's Conveyancing, p. 449, 451, *et seq.*, and Hawkins on Warrants of Attorney.

The rules and orders of the Common Law Courts, relating to Warrants of Attorney and Defeazance, should be referred to.

On an annuity being re-purchased, the re-conveyance will depend upon the mode in which the annuity was granted. I allude to this subject in order that attention may be drawn to the necessity of considering such assurances; but a knowledge of the several forms of assurance, mentioned in this volume, will enable the Student to adapt them to the particular case of every such re-conveyance.

Forms of the old warrants to enter up satisfaction on a judgment in the Inrolment Office and on Court Rolls, and of a satisfaction piece taken by a lord or steward will be found in 2 Jarman's Conveyancing, pp. 463 to 466. See the order made in Easter Term, 7 Vict., as to the form for acknowledging satisfaction of a judgment, in 5 Adolphus's and Ellis's Reports, New Series, p. 832.

Life Assurance Societies have rendered Annuity Deeds not so common as they used to be; since, if an assurance can be effected, and the property offered as a security is sufficient to pay the interest at £5 per cent. for the required loan, together with the expense of effecting the assurance of the life, and leave such an annual balance as the lender may consider to be sufficient to meet any contingency, the money can be usually procured by way of mortgage, and thus the exorbitant rate usually paid for borrowing money by annuity is avoided.

APPOINTMENTS AND POWERS.

These subjects should be studied in Sir E. Sug-

den's Treatise of Powers. Points relating to them, which are not found there, may be so in Chance on Powers, to which there is a Supplement added.

On the powers of trustees and the change of them you may refer to Lewin on Trustees, chapter 20, and on the appointment of portions, see Mathews on Portions.

For the nature of a deed of appointment read 2 Sanders on Uses, pp. 87 to 101, and for Precedents of Deeds of appointment, see 2 Jarman's Conveyancing, p. 505.

APPORTIONMENT.

The acts relating to Apportionment are the 11 Geo. 2, c. 19, and 4 Wm. 4, c. 22. On the construction of the latter act refer to Browne *v.* Amyot, 3 Hare's Reports, p. 173; and read the observations on this act in 1 Hayes's Introduction to Conveyancing, p. 333, *et seq.* It extends to Scotland; see Fordyce *v.* Brydges, 11 Jurist, 157.

For Deeds of Apportionment by agreement between parties, see 2 Jarman's Conveyancing, p. 628, and 5 Martin's Conveyancing, p. 598.

As to apportionment between tenant for life and remainderman, see Bisset on Estates for Life, p. 266, and the references there made; and as to apportionment, in cases of tenants in tail, see Kevill *v.* Davies, 11 Jurist, p. 31.

ARBITRATION, SUBMISSION TO, AND AWARD.

You will find a treatise of these subjects in Billing on Awards; see also Bisset on Partnership, under the title Arbitration.

For points which you may not be able to find an explanation of in the above works, you may refer to Watson on Arbitration and Awards, Caldwell on Arbitration, and 2 and 3 Jarman's Conveyancing: in the latter volumes there are many precedents for deeds relating to these subjects.

ASSENT.

See *infra*, under the title Direction.

ASSETS.

On this subject, see Ram on the Law of Assets.

ASSIGNMENT.

In order to distinguish between cases in which a deed is required, and where a writing only may be sufficient, read the observations in 2 Hayes's Intro-

duction to Conveyancing, n. p. 33. As to what may be made the subject of assignment, see *Lunn v. Thornton*, 9 Jurist, p. 350; *Gale v. Burnell*, 10 Jurist, p. 198. For forms of assignment refer to 3 Jarman's Conveyancing, p. 11; 3 Martin's Conveyancing, pp. 333, 361, 377.

As to the necessity in certain cases for a deed after the 31st December, 1844, see 7 & 8 Vict. c. 76, s. 3; and after the 1st of October, 1845, see 8 & 9 Vict. c. 106, s. 3.

ASSIGNMENT AND MERGER OF TERMS AND PRESUMPTION OF THEIR SURRENDER.

As to the Assignment of Terms, refer to Sugden's Vendors and Purchasers, under the title Term of Years, and see the alterations effected by 8 & 9 Vict. c. 112. In Davidson's Concise Precedents in Conveyancing, 2nd edition, and Williams's Supplement to his Introduction to Conveyancing, you will find some remarks on this act, see also *Doe d. Cadwalader v. Price*, 11 Jurist, p. 131.

The principal work on the merger of terms is 3 Preston's Conveyancing, and this subject, and the presumption of the surrender of terms are treated of in Sugden's Vendors and Purchasers, see under the title above referred to; see also Mathews on Presumption, p. 226 to 259, and Bisset on Estates for Life, under the title Merger.

ATTESTATION.

On the Attestation of deeds and other instruments, see 3 Jarman's Conveyancing, p. 12.

ATTORNEY, POWERS OF.

As to Powers of Attorney, see 5 Jarman's Conveyancing, p. 138. In the edition now being prepared, this subject is to be transferred to volume 8.

ATTORNMENT.

The law connected with Attornment will be found in Littleton's Tenures, s. 551, to be read with reference to 3 Jarman's Conveyancing, 35. In the latter volume there are Precedents for Attornments, and if any further information is required, see Sheppard's Touchstone, by Preston, p. 253 to 266.

AUCTIONS.

For this subject, see Bateman or Babington on Auctions.

AUTER VIE ESTATES PUR, AND SPECIAL OCCUPANCY.

On the subject of these estates, see Bisset on Estates for Life, p. 153, *et seq.*

BANKRUPTCY.

Deacon's Treatise of Bankruptcy by De Gex, will supply information on this subject, and for points which are not found there, refer to Archbold's, or Montagu's and Ayrton's Bankrupt Law, or Lord Henley's Treatise of Bankruptcy.

BARGAIN AND SALE.

For an explanation of this assurance, see 2 Sanders on Uses, under the title Bargain and Sale, Sheppard's Touchstone, by Preston, from p. 221 to p. 227.

BILLS OF SALE.

There are remarks upon these assurances in 5 Jarman's Conveyancing, p. 235 to p. 326; and for a Precedent, see 6 Jarman's Conveyancing, p. 277,

where there are some observations as to the validity of such securities, if possession is not taken of the mortgaged chattels which may have been assigned as a security.

BONDS.

On this subject, see 3 Jarman's Conveyancing, 268, and for points not found there, refer to Hurlstone on Bonds. The proceedings at Law relating to them will be found in Selwyn's Nisi Prius under the title Bonds, where much learning on subjects relating to Actions at Law connected with Real Property will also be found.

BOROUGH ENGLISH.

See Robinson on Gavelkind and Borough English.

CHANCELLORS.

For a list of the Chancellors, Keepers of the Great Seal, Masters of the Rolls, Vice Chancellors, Judges, Attorneys, and Solicitors General in England, see Woolrych's Series; or Hardy's Catalogue of Lord Chancellors; or Gibb's Judicial Chronicle; for those in Ireland, see Smyth's Chronicle.

CHANCERY.

As to the Practice of the Court of Chancery, see Smith's or Daniell's Practice; and, for the general principles of Equity, see the Treatises of Maddock or Fonblanque, or Story.

CHARITY AND MORTMAIN.

Shelford's Practical Treatise of the Law of Mortmain and Charitable Uses and Trusts, with an Appendix of Statutes and Forms, will supply information on these subjects; and see *infra*, under the titles Ecclesiastical Property and Persons.

COLONIES.

On the laws of the Colonies, see Burge's Commentaries on Colonial and Foreign Laws generally, and in their Conflict with each other, and with the Law of England; and Story's Commentaries on the Conflict of Laws, Foreign and Domestic.

COMPANIES.

See the title Partnership, *infra*.

COMPOSITION DEEDS.

See the title Creditor, Composition, and Inspectorship Deeds, *infra*.

CONDITIONS.

As to Conditions, subject to which estates may be held, see Coke upon Littleton, by Hargrave and Butler, p. 201 *a*, *et seq.*, 1 Preston on Estates, p. 36, *et seq.*

CONDITIONS OF SALE.

For this subject, refer to Sugden's Vendors and Purchasers, under the title Conditions of Sale, and see the Appendix, No. IV., to that Work, 3 Martin's Conveyancing, p. 27, *et seq.*, and the title Auction, *supra*.

CONFIRMATION.

On this assurance, see Sheppard's Touchstone, by Preston, p. 311; and for Precedents, refer to 3 Jarman's Conveyancing, p. 591.

CONTINUAL CLAIM.

See the remarks on this subject in Littleton's Tenures, by Tomlins, p. 444, *et seq.*, and for any further information as to it, see Littleton's Tenures.

CONTRACTS.

This subject is treated of in Sugden's Vendors

and Purchasers, see the Index under the title Contracts; and for further information refer to Addison or J. W. Smyth on Contracts; see also Chitty or Story on Contracts not under Seal.

As to Chattels Personal, see Morton's Practical Treatise of the Law of Vendors and Purchasers of Chattels Personal.

CONVERSION.

On the Conversion of Real Property into Personal, and of Personal Property into Real, see Leigh's and Dalzell's Treatise of these subjects, and Bisset on Partnership, pp. 50 to 56.

CONVEYANCE OF FREEHOLD ESTATES.

Conveyances of these estates will now be most commonly made under the 8 & 9 Vict. c. 106, s. 2, by way of Grant.

There is an account of this Act, and some others relating to Real Property, passed in the same session, in Davidson's Concise Precedents, 2nd edition.

For the forms of conveyances of Hereditaments, see their several titles in this volume, as Lease and Release, Bargain and Sale, Feoffment, Covenant to stand seised, Grant, Appointment, Exchange, &c.

COPYHOLD.

Scriven on Copyholds, by Stalman, will supply most of the information which can be required on this subject, and there are Forms for Assurances relating to Copyhold Property in the Appendix.

For points not found there, refer to Watkins on Copyholds.

CORPORATIONS.

The law relating to Corporations will be found in Glover or Rawlinson on Municipal Corporations.

COURTS.

As to the jurisdiction of the Courts, see p. 6, *supra*, and under the titles Bankruptcy, *supra*, and Insolvency, *infra*.

COVENANTS.

On this subject, see Platt on Covenants, 1 Martin's Introduction to Conveyancing, p. 350, *et seq.*, and the Compendium of the Law relating to Covenants contained in the Third Report of the Real Property Commissioners, which will be found in the lastly mentioned volume, p. 361.

COVENANT TO STAND SEISED TO USES.

For an explanation of this Assurance, see 2 Sanders on Uses, and 3 Jarman's Conveyancing, 670, and at p. 678 and p. 679 of the latter volume there are Precedents of Deeds of this character.

COVENANT FOR THE PRODUCTION OF TITLE DEEDS.

On this subject, refer to 2 Sugden's Vendors and Purchasers (*a*), pp. 88 to 131. For a precedent, refer to 5 Martin's Conveyancing, p. 592. There is a neat form for putting the Deeds covenanted to be produced into a Schedule in 2 Hayes's Introduction to Conveyancing, p. 110.

CREDITOR, COMPOSITION, AND INSPECTORSHIP DEEDS.

These Deeds are treated of, in Forsyth on Composition; and refer to the 1 & 2 Vict. c. 110, s. 59, 7 & 8 Vict. c. 96, s. 19. For Precedents of them, refer to 8 Jarman's Conveyancing, and 5 Martin's Conveyancing, p. 427, *et seq.* As to the revocable nature of some of these Deeds, see the observations

(*a*) The edition to which I have referred, throughout this Work, is the 10th.

in 1 Hayes's Introduction to Conveyancing, p. 454, and the case of *Lane v. Husband*, 9 Jurist, 1001.

CROWN, PREROGATIVE OF.

On this subject, see Allen's Inquiry of the Royal Prerogative of England, or Chitty on the Prerogatives of the Crown.

CURTESY.

See p. 8, *supra*, and Bisset on Estates for Life, p. 35, *et seq.*

CUSTOMARY FREEHOLD.

See p. 8, *supra*.

DECLARATION OF TRUST.

The Law relating to Declarations of Trust, will be found in Lewin on Trustees, pp. 26 to 42; and for a form, see 5 Martin's Conveyancing, p. 625.

DEEDS.

On Deeds generally, see Sheppard's Touchstone, by Preston, p. 50, and the 7 & 8 Vict. c. 76, and

the 8 & 9 Vict. c. 106; Dixon on the Law relating to Title Deeds and other Documents; and, as to the right of holding them, see *infra*, under the title Settlement, and for Covenants to produce them, see p. 28, *supra*.

For the mode of executing Deeds abroad, in the presence of foreign witnesses, see Coventry's Conveyancer's Evidence, p. 43, Kinnaird v. Saltoun, 1 Maddock's Reports, p. 227, Churchill's case, 1 Dowling's and Ryland's Reports, p. 344.

DEFEAZANCE.

Points relating to a Defeazance, will be found by reference to 5 Martin's Conveyancing, p. 602; and, as connected with Warrants of Attorney, see under the title Annuity, *supra*.

DESCENTS.

On this subject, see Watkins on Descents, Hale's History of the Common Law, p. 291, 1 Hayes's Introduction to Conveyancing, pp. 310 and 575, *et seq.*

DIRECTION.

A precedent for a form, by which requests may be made to Trustees by persons beneficially entitled to property, to make investments, or to do other acts, will be found in 5 Martin's Conveyancing,

p. 620, and for the importance of it, see *Bateman v. Davis*, 3 Maddock's Reports, p. 98, and *Cocker v. Quayle*, 1 Russell's and Mylne's Reports, p. 535.

DISCLAIMER.

The principal points on this subject will be found in 5 Martin's Conveyancing, p. 607, where there is a precedent.

DISCONTINUANCE.

On Discontinuance, see Coke upon Littleton, by Hargrave and Butler, 325 *a*, and 1 Hayes's Introduction to Conveyancing, p. 237.

DOWER.

For a Treatise of Dower, see Park on Dower, Bisset on Estates for Life, p. 66, *et seq.*, and the references there made.

EASEMENTS.

The law relating to Easements, will be found in Gale and Whatley on this subject; Hall on Sea Shores; or Woolrych on the Law of Waters and Sewers.

ECCLESIASTICAL PROPERTY AND PERSONS.

Cripps on the Church; Burn's Ecclesiastical Law; Stephen's Collection of Ecclesiastical and Eleemosynary Statutes, with notes brought down to the end of 7 & 8 Vict.; Christopher Hodgson's Instructions for the Use of Candidates for Holy Orders, and of the Parochial Clergy as to Ordination, Licenses, Institutions, Collations, Induction, Reading in, Resignations, Dispensations, with Acts of Parliament relating to the Residence of the Clergy, Maintenance of Curates, and to Exchanges of Parsonage Houses and Glebe Lands, with the Forms to be used; and Christopher Hodgson's Account of the Augmentation of Small Livings by the Governors of Queen Anne's Bounty, and of Benefactions by Corporate Bodies and Individuals, to the End of the Year 1844, with Practical Instructions for the Use of Incumbents and Patrons of Augmented Livings, will give most of the information which can be required on these subjects.

On Ecclesiastical Dilapidations, see Elmes on Dilapidations.

For the practice of the Ecclesiastical Courts, see Coote's Ecclesiastical Practice.

EJECTMENT.

For this subject, see Adams or Archbold on Ejectment.

ELECTION.

As to the doctrine of Election, see 1 Jarman on Wills, p. 385, and Stalman on Election and Satisfaction.

ESCHEAT.

On this subject see 1 Hayes's Introduction to Conveyancing, p. 332.

ESCROW.

The law relating to an Escrow will be found in Sheppard's Touchstone, by Preston, p. 58; see also the case of Doe *d.* Garnons *v.* Knight, 5 Barnewall's and Cresswell's Reports, p. 671, 2 Blackstone's Commentaries, by Chitty, p. 306 and n. 20.

**ESTATES GENERALLY, AS ESTATES
TAIL, &c.**

See p. 8, *supra*, and Preston on Estates.

ESTOPPEL.

On the law of Estoppel, see Coke upon Littleton, by Hargrave and Butler, p. 352 *a*, the cases cited 1 Hayes's Introduction to Conveyancing, p. 165, and the cases in the Digests which are subsequent to that work.

EVIDENCE.

The learning on this subject will be found in Phillips or Starkie, or Gresley, on Evidence.

For Conveyancer's evidence, see Burton's Compendium, chap. 1, s. 7, and Coventry's Conveyancer's Evidence.

As to perpetuating testimony, see 5 & 6 Vict. c. 69.

EXCHANGE.

For the law relating to Exchanges, read Shepard's Touchstone, by Preston, from p. 289 to p. 300, and the observations in 4 Jarman's Conveyancing, from pp. 1 to 12.

As to the necessity for effecting exchanges by a deed after the 31st of December, 1844, see 7 & 8 Vict. c. 70, s. 3, and after the 1st day of October, 1845, see 8 & 9 Vict. c. 106, s. 3.

For Precedents, see 4 Jarman's Conveyancing, p. 13, and 4 Martin's Conveyancing, p. 260, and the observations in the latter book.

EXECUTORS.

See the title Administration, Letters of, *supra*.

FEOFFMENT.

On this assurance read 4 Jarman's Conveyancing, pp. 37 to 69, and for points not found there, see Sheppard's Touchstone, by Preston, pp. 203 to 221; or 2 Sanders on Uses.

As to the necessity for a Feoffment being made after the 1st of October, 1845, by a deed, see 8 & 9 Vict. c. 106, s. 3.

FINES AND RECOVERIES.

Bayley on Fines and Recoveries will supply information on these subjects, and for points which are not found there, refer to Pigott on Recoveries, Cruise or Hand, or Miller on Fines and Recoveries.

The 3 & 4 Wm. 4, c. 74, "The Act for the Abolition of Fines and Recoveries, and for the Substitution of more simple modes of Assurance," should be studied, and see the observations on that act in 1 Hayes's Introduction to Conveyancing, pp. 130 to 222; refer also to the cases noted on that act in the 2nd volume of Hayes's Introduction to Conveyancing, p. 283, *et seq.*, and in Smith's Succinct View of the operation of Fines and Recoveries, Foxon *v.* Foxon, 10 Jurist, p. 1067, n., Jordan *v.* Jones, 2 Phillips's Reports, p. 170.

Forms of Assurance to bar Estates Tail, will be found in 2 Hayes's Introduction to Conveyancing, p. 161, *et seq.*

The act for the Abolition of Fines and Recoveries in Ireland, is the 4 & 5 Wm. 4, c. 92.

As to Fines and Recoveries in Wales and Cheshire, see 5 & 6 Vict. c. 32.

Respecting the abolition of certain offices connected with Fines and Recoveries, and providing for the transfer of records, &c., relating to the business of the offices, see 5 & 6 Wm. 4, c. 82.

For points relating to Recovery Deeds, see 1 Preston's Conveyancing, pp. 161 to 199; and for those relating to deeds to declare the uses of Fines, see 2 Preston's Conveyancing, pp. 1 to 123.

FIXTURES.

On this subject, see Amos and Ferard, or Grady on Fixtures, and the cases of *Ex parte Price re Stead*, 6 Jurist, p. 327; *Ex parte Cotton re Nutter*, 6 Jurist, p. 1045; *Ex parte Thompson in re Derham*, 8 Jurist, p. 633; *Fisher v. Dixon*, 12 Clark's and Finnely's Reports, p. 312.

FOREIGNER.

See the title Aliens and Denizens, *supra*.

As to contracts between persons domiciled in a Foreign Country, see *Anstruther v. Adair*, 2 Mylne's

and Keen's Reports, p. 513, and as to contracts made in a Foreign Country by parties resident in England, see *De la Vega v. Vianna*, 1 Barnewall's and Adolphus's Reports, p. 284. For other points relating to Foreigners, see under the title "Foreigner" in Harrison's Digest.

FORFEITURE.

The effect of crimes causing a Forfeiture, is treated of in 4 Jarman's Conveyancing, p. 70.

As to Forfeiture for improper alienation, see 1 Hayes's Introduction to Conveyancing, p. 14, and Bisset on Estates for Life, under the titles Alienation and Forfeiture.

FREEHOLD.

On the subject of Freehold Estates, see Bisset on Estates for Life, pp. 1 to 14, or Preston on Estates, p. 200, and the title Conveyance of Freehold Estates, *supra*, p. 26.

FUNDED PROPERTY.

For the law of the Public Funds, and cases on the Foreign Funds and Public Companies, see Wilkinson on the Funds; the acts for reducing the £3 10s. per cents. to £3 5s. per cents., are 7 & 8 Vict. c. 4, 7 & 8 Vict. c. 5, and for the payment of the parties dissenting to accept £3 5s. per cent. see the 7 & 8 Vict. c. 64.

For the amendment of the law respecting Testamentary dispositions of Property in the Public Funds, and to authorize the payment of Dividends on Letters of Attorney in certain cases, refer to 8 & 9 Vict. c. 97.

FURTHER CHARGE.

As to this assurance, see 3 Martin's Conveyancing, p. 639, 5 Jarman's Conveyancing, pp. 439 n., 441, 442, and the note, 2 Hayes's Introduction to Conveyancing, p. 152.

GAVELKIND.

See Robinson on Gavelkind.

GIFT.

See the title Voluntary Settlement, *infra*.

GRANT.

For this subject, refer to Sheppard's Touchstone, by Preston, from p. 228 to 253, and 2 Sanders on Uses; and see the alterations effected under the 8 & 9 Vict. c. 106, s. 2.

For precedents of Grants, see 4 Jarman's Conveyancing, p. 131.

GUARDIANSHIP.

See the title Infants, *infra*.

HEIR LOOMS.

See the title Settlement, *infra*.

HUSBAND AND WIFE.

See the title Marriage, *infra*.

INCLOSURE.

Coventry, or Pratt, or Woolrych on Inclosures will supply most of the requisite information on this subject, see also the title Inrolment, *infra*.

INCUMBRANCES.

As to advising what searches for Incumbrances should be made, see 2 Sugden's Vendors and Purchasers, p. 72, and 402 to 417, 1 Jarman's Conveyancing, p. 104, *et seq.*

INDEMNITY.

On the subject of Deeds of Indemnity, see 4 Jarman's Conveyancing, pp. 162 to 174, and in that volume there are precedents for them; see also 1 Martin's Conveyancing, p. 489, and 5 Martin's Conveyancing, p. 501.

INDORSEMENT.

For a form of a memorandum to be indorsed on a Deed, see 5 Martin's Conveyancing, p. 624.

INFANTS.

The learning on this subject will be found in McPherson or Chambers on Infants; see also 1 Hayes's Introduction to Conveyancing, pp. 466 to 479, 1 Sugden's Vendors and Purchasers, pp. 321, 322, 2 Sugden's Vendors and Purchasers, pp. 192 to 195, and Sugden's Acts, by Jemmett.

As to Purchases by them, see 3 Sugden's Vendors and Purchasers, p. 222.

INROLMENT OF DEEDS AND AWARDS.

As to the necessity for the Inrolment of certain Deeds, see 4 Cruise's Digest, p. 102, *et seq.*, and the Statutes of 27 Hen. 8, c. 16, 34 & 35 Hen. 8, c. 22, 5 Eliz. c. 26, 4 & 5 Wm. & Mary, c. 22. There is a reading on the first mentioned Statute in Fearne's Posthumous Works.

On the Inrolment of Awards under Inclosure Acts, see 3 & 4 Wm. 4, c. 87, and as to the Inrolment of Deeds and Wills in London, see 1 Jarman's Conveyancing, p. 263.

INSOLVENCY.

On this subject, see Cooke's Practice of the Insolvent Debtors' Court, or Nicholl's or Allen's Works.

INSPECTORSHIP DEEDS.

See the title Creditor, Composition, and Inspectorship Deeds, *supra*.

INSURANCE.

On this subject, see Dowdeswell, or Beaumont, or Ellis, or Park on Insurance; and on Marine Insurance, see Hildyard's principles of it.

JOINT-TENANCY.

See Estates, *supra* p. 8.

JOINTURE.

For the law relating to Jointure, see Coke upon Littleton, by Hargrave and Butler, p. 36 *b*, and 1 Cruise's Digest, p. 187.

JUDGMENTS AND CROWN DEBTS.

On the subject of Judgments and Crown Debts, see 1 Sugden's Vendors and Purchasers, pp. 16, 102, 2 Sugden's Vendors and Purchasers, pp. 53, 78, 381 to 418, 3 Sugden's Vendor's and Purchasers,

pp. 328 to 345, and 348, 435, 436; Prideaux on Judgments; West on Extents; 1 Jarman's Conveyancing, p. 104; or Cross on Lien.

LEASE AND RELEASE.

For an explanation of these Deeds, refer to 2 Sanders on Uses, and see the alterations effected by 4 & 5 Vict. c. 21, 7 & 8 Vict. c. 76, s. 2, and 8 & 9 Vict. c. 106, s. 2; the dates stated in the repealing clause, s. 1, of the latter act must be attended to. The two latter acts are commented upon in the 1st and 2nd editions of Davidson's Concise Precedents.

LEASES.

Woodfall's Landlord and Tenant, by Harrison; Coote on Landlord and Tenant; or Platt on Leases, will supply information on this subject, and see the title Renewal of Leases, *infra*.

LEGACIES.

On this subject, see Roper on the Law of Legacies, and the works referred to under the title Wills, *infra*.

For the effect of Assent to Legacies, refer to Williams on Executors, p. 1084.

As to Legacy Duties, and the Rules and Practice of the Legacy Duty Office, refer to Gwynne's work on these subjects, and Tilsley on Stamps, under the title Legacy Duty.

LEGAL LANGUAGE, HISTORICAL AND
CIVIL CALENDAR, LEGAL MAXIMS
AND PHRASES, TERMS OF ART,
AND ABBREVIATIONS.

For information as to these points, refer to Tayler's Law Glossary; the Law French Dictionary, and Law Latin Dictionary; and the Dictionnaire de vieux Langage; Kelham's Norman Law Dictionary; Whishaw's Law Dictionary, containing a concise exposition of the mere Terms of Art, and such obsolete words as occur in old Legal, Historical, and Antiquarian Writers; Wright's Court-hand restored; Sir Harris Nicolas's Notitia Historica, and his Chronology of History; Broom's Legal Maxims; and Jacob's Law Grammar.

For words used in various arts, see Crabb's Technological Dictionary.

The Abbreviations used for references in Law Books are usually placed in the beginning of the Law Booksellers' Catalogues (*a*), which are easily to be obtained, and in the commencement of some of the Treatises, as Burton's Compendium, Smith's Practice, and in Chitty's Index.

(*a*) The prices of the Books are inserted in these Catalogues.

LIEN.

Cross on Lien, and the works referred to under the title Judgments, *supra*, will furnish information on points relating to Lien.

LIFE ESTATES.

On this subject, see Bisset on Life Estates.

LIMITATION OF ACTIONS.

As to the law relating to Limitation of Actions, see 1 Hayes's Introduction to Conveyancing, p. 222; *et seq.*, Shelford's Real Property Statutes, and Browne on Actions.

LUNACY.

On Lunacy, see Shelford's Treatise of the Law concerning Lunatics, Idiots, and Persons of Unsound Mind, or Stock on Lunacy, and Winslow on the act, 8 & 9 Vict. c. 100, for the Regulation of the Care and Treatment of Lunatics.

MARRIAGE AND DIVORCE.

Shelford's Practical Treatise of the Law of Marriage, and Divorce, and Registration; Macqueen's Practical Treatise on the Appellate Jurisdiction of the House of Lords and Privy Council, also, the Practice of Parliamentary Divorce, with a selection of leading cases thereon, and Roper on Husband and Wife will supply information on these subjects.

The cases on Foreign Marriages are referred to and commented upon in the Sussex Peerage case, 11 Clark's and Finnelly's Reports, p. 85.

MEMORIALS.

For forms of Memorials, see 5 Jarman's Conveyancing, p. 211, which are to be transferred to the 8th volume in the edition now being published.

MORTGAGES.

There is a treatise of this subject in 5 Jarman's Conveyancing, p. 542, and the precedents which follow in that and the next volume, will show the great variety there is of these Deeds. For points which are not found there, refer to Coote on Mortgages, or Powell on Mortgages.

The notes in 2 Hayes's Introduction to Conveyancing under the precedents from p. 119 to 160 should be read.

Miller's Law of Equitable Mortgages, and *Whitworth v. Gaugain*, 10 Jurist, p. 531, will give information as to Equitable Mortgages.

By the 8 & 9 Vict. c. 56, and the act therein referred to, powers of charging Settled Estates with expenses for draining the same were given. For the forms of proceedings under this act, see the Orders of Court of the 4th of March, 1846, they are in 10 Jurist, p. 84.

MORTGAGES, TRANSFER OF.

See the title Transfer of Mortgages, *infra*.

MORTGAGED ESTATES, RECONVEYANCE OF.

For assurances of this kind, see 6 Jarman's Conveyancing, p. 420 to 444, and the notes on the precedents, p. 474 to 505 of that volume, and refer to 7 & 8 Vict. c. 76, s. 9, but which is repealed by 8 & 9 Vict. c. 106, s. 1, as from the 1st of October, 1845.

MORTMAIN.

See the title Charity and Mortmain, *supra*.

NOTICE.

On the doctrine of persons receiving Notice,

express or implied, so as to affect their rights, see the title Notice in Sugden's Vendors and Purchasers.

For some of the forms in which Notices may be given, see 6 Jarman's Conveyancing, p. 566.

OCCUPANCY, SPECIAL.

See the title *Auter vie*, *supra*, p. 22.

OUTLAWRY.

On this subject much information will be found in Tidd's Practice, see the Index under this title.

PARTITION.

As to the Law of Partition, see Allnatt on Partition, and 6 Jarman's Conveyancing, p. 586. For the necessity of Partitions being effected by means of a deed, after the 31st of December, 1844, see 7 & 8 Vict. c. 76, s. 3, and after the 1st of October, 1845, see 8 & 9 Vict. c. 106, s. 3.

Precedents for Deeds of Partition will be found in 6 Jarman's Conveyancing, p. 614.

PARTNERSHIP, DISSOLUTION OF PARTNERSHIP AND COMPANY DEEDS.

On these subjects, see Bisset on Partnership,

Railway and other Joint Stock Companies, 7 Jarman's Conveyancing, p. 1, *et seq.*, Collyer or Gow on Partnership, or Wordsworth on Joint Stock Companies.

As to Railway Companies, see Shelford, Walford, or Hodges on Railways.

For precedents, see 7 Jarman's Conveyancing, p. 123.

PATENTS.

Webster's Law and Practice of Letters Patent for Inventions, Statutes, Practical Forms, Digest of Reported Cases and Table of Fees; 7 Jarman's Conveyancing, p. 458, *et seq.*; Billing's and Prince's Law and Practice of Patents and Registration of Designs; or Godson on the Law of Patents for Inventions and of Copyright will supply information on this subject.

PECULIARS.

See the title Wills, *infra*.

PERPETUITY.

On the Law relating to the limit within which estates must be made to take effect, refer to Lewis on Perpetuity.

PETITION.

For the forms of Petitions to the House of Lords,

or the House of Commons, see May upon the Law, Privileges, &c., of Parliament, p. 303, but the Standing Orders of the Houses of Parliament should be referred to.

For Petitions in Chancery, see 2 Smith's Chancery Practice, p. 601, and, for the form of a Petition to the Treasury in cases of Escheat, see 5 Martin's Conveyancing, p. 648.

PEWS.

Billing on Pews will supply much information on this subject.

PORTIONS.

On Portions for Children, see Mathews on Portions, and the title Settlement, *infra*.

POWERS.

See the titles Appointments, and Powers, and Attorney, *supra*.

PRESCRIPTION.

For the Law relating to Prescription refer to Shelford's Real Property Statutes.

PRESUMPTION.

On this subject, see Mathews or Best on Presumption, 2 Sugden's Vendors and Purchasers, pp. 76, 97, 196, 3 Sugden's Vendors and Purchasers, pp. 24, 67, 260, 10th edition.

PRINCIPAL AND AGENT.

For the Law relating to Principal and Agent, see Paley on Principal and Agent, or Story on Agency.

PRINCIPAL AND SURETY.

On this subject, see Pitman, or Theobald, on the Law of Principal and Surety.

RAILWAYS.

See the title Partnership, *supra*.

RECEIVERSHIP DEEDS.

For forms of Deeds of this character, see 3 Martin's Conveyancing, p. 631, or 5 Jarman's Conveyancing, pp. 359, 402, 403, 456.

**RECONVEYANCE OF MORTGAGED
ESTATES.**

See p. 46, *supra*.

REGISTRATION OF DEEDS, WILLS, OTHER INSTRUMENTS AND JUDGMENTS.

On this subject, refer to 2 Sugden's Vendors and Purchasers, pp. 403, 409, to 417, 3 Sugden's Vendors and Purchasers, pp. 346 to 391, 406, 409 to 413, 10th edition, and Rigge on Registration, and Dibb on Registering Deeds.

RELEASES.

For an explanation of Releases, see Littleton's Tenures, s. 444, *et seq.*, Sheppard's Touchstone by Preston, from pp. 320 to 348, see also 1 Martin's Conveyancing, p. 483, 5 Martin's Conveyancing, pp. 473 and 614.

REMAINDERS.

See p. 8, *supra*, Preston on Estates, and under the title, Settlement, *infra*.

REMITTER.

On the Law of Remitter, see Coke upon Littleton by Hargrave and Butler, p. 347 *b*, *et seq.*

RENEWAL OF LEASES.

As to the renewal of Leases, see the title Leases, *supra*, Bisset on Estates for Life, p. 246, and Lewin on Trustees, p. 300.

RENTS.

On the subject of Rents, see Burton's Compendium, from pp. 394 to 419, Littleton's Tenures, s. 213 to 240, and Gilbert on Rents.

REPORTS AND CASES.

Many of the Reports being in Norman French, and Law Latin, there may be difficulty in translating them. As an assistance refer to the Law French Dictionary and Law Latin Dictionary; the Dictionnaire de vieux Langage; or Kelham's Norman Law Dictionary, and see the title, Legal Language, *supra*.

The names of the Reporters according to their dates and the Courts of the Chancellors, Masters of the Rolls, Vice Chancellors, and Judges, according to the dates of their holding Office, will be found in Gibbs's Judicial Chronicle. The list of the Reporters may be continued by reference to the

Modern Catalogues of Law Books which are easily to be obtained at the Law Booksellers.

An Index to all the cases determined in the House of Lords, the several Courts of Common Law, in Banc, and at Nisi Prius, and the Court of Bankruptcy, from Michaelmas Term, 1756, to Easter Term, 1843, including also the Crown Cases reserved, and a full selection of Equity decisions, with the Manuscript Cases cited in the best Modern Treatises, not elsewhere reported, will be found in Harrison's Digest.

An Index to all the Reported Cases, Statutes, and General Orders, in or relating to the principles in pleading and practice of Equity and Bankruptcy, in the several Courts of Equity in England and Ireland, the Privy Council, and the House of Lords, from the earliest period down to August, 1837, will be found in Chitty's Index and Addenda.

Subsequent Digests will be found in Jeremy's Annual Digest, and in the Digests in the Supplement in each year to the Jurist.

REQUEST FOR SALE.

For a form of this kind refer to 5 Martin's Conveyancing, p. 621, and the title, Direction, *supra*.

REVERSION.

A definition of a Reversion will be found in Coke

upon Littleton by Hargrave and Butler, p. 22 *b*, see also this title in Fearn's Contingent Remainders, and 2 Crabb on Real Property, p. 978.

As to the sale of Reversionary Interests, refer to Sugden's Vendors and Purchasers under the title Reversion.

RIGHTS OF ENTRY AND ACTION.

See under the title Limitation of Actions, *supra*, and refer to Littleton's Tenures, by Tomlins, under the title, Right of Entry.

SALE.

See the titles, Conditions of Sale and Auction, *supra*, and the next title.

SALES UNDER THE AUTHORITY OF THE COURT OF CHANCERY.

On this subject, see the Index to Sugden's Vendors and Purchasers, under the title, Sales before a Master, 2 Smith's Chancery Practice, p. 184, or Daniell's Practice, p. 1193.

SEPARATION DEEDS.

For an explanation of these deeds and the Law

connected with them, refer to Shelford's Practical Treatise on the Law of Marriage and Divorce and Registration, and the notes in 5 Martin's Conveyancing, p. 634, where there is a precedent, and for points which may not be found in the above works refer to Roper on Husband and Wife.

SETTLEMENT.

Mr. Charles Butler has observed, that every intelligent person must consider with admiration, how completely a Marriage Settlement or a Will, when it is properly prepared, confers the beneficial ownership on the temporary possessor for every legitimate purpose, while his abuse of it is prevented.—*Butler's Reminiscences*, vol. 1, p. 58.

With the view of leading to the explanation of the object of Settlements, and the law connected with them, I have placed the heads of most of the clauses to be found in Settlements, and points connected with them, on the left column of this and the eight following pages, and the books to be referred to on the right.

On the nature and objects of ...	{	Coke upon Littleton, by Hargrave and Butler, p. 290 <i>b</i> , n. 5, 1 Hayes's Introduction to Convey- ancing, p. 557.
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On Estates for Life { Bisset on Estates for Life.

With reference to the Rights and Powers of a Tenant for Life, and committing Waste { See particularly chapters 7 to the end of the lastly mentioned Work.

As to the necessity prior to 7 & 8 Vict. c. 76, and 8 & 9 Vict. c. 106, for, and the limitation to, Trustees to preserve Contingent Remainders ... { Fearne's Contingent Remainders, p. 326 to 337. Read the case of *Garth v. Cotton*, 1 Dickens's Reports, p. 183, and the note in Coke upon Littleton, by Hargrave and Butler, p. 290 *b*, n. V. 4, and the note in 5 Martin's Conveyancing, p. 150.

The two lastly mentioned statutes must be studied, but as to Contingent Remainders, see the 8th section of the former, and the 1st and 8th sections of the latter Statute.

For the nature of a Rent-charge ... { 2 Blackstone's Commentaries, p. 41, and Lumley on Annuities and Rent-charges.

- As to Entry . . . { 4 Martin's Conveyancing, p. 504, and *Jemott v. Cowley*, 1 Saunders's Reports, p. 112, 1 Levinz's Reports, p. 170, and the title, Right of Entry, *supra*.
- As to Terms of Years { Watkins on Conveyancing, under the title Term; *Willoughby v. Willoughby*, 1 Durnford's and East's Reports, p. 765.
- Merger of Terms for Years, and Estates for Life ... { 3 Preston on Conveyancing, Bisset on Estates for Life, pp. 182 to 212.
- Proviso for Cesser { Sugden's Vendors and Purchasers under the title Proviso for Cesser.
- Appointment of Portions for Children { Sugden on Powers, under the title Portions, Matthews on Portions, pp. 23 to 58.
- Vesting of Portions, and mode of framing clause for vesting them { 4 Martin's Conveyancing, see the notes, pp. 318, 435 to 438.

Time of raising Portions ... } Matthews on Portions,
pp. 119 to 132.

Mode of raising Portions ... } Matthews on Portions,
pp. 135 to 144.

For a precedent of a Mortgage of a Term for raising Portions, the Tenant for Life joining } Matthews on Portions,
p. 323.

Estates Tail ... See p. 8, *supra*.

On the various interpretations given to the word "Issue" ... } Prior's Treatise on the Construction of Limitations in which the words "Issue" and "Child" occur.

As to Cross Remainders { 1 Preston on Estates,
p. 94.

On the limit within which Estates must take effect ... } Cadell v. Palmer, 7 Bligh's Parliamentary Reports, New Series, p. 229, 1 Hayes's Introduction to Conveyancing, p. 493; Lewis on Perpetuity.

On the limit within
which Powers may be
exercised

1 Hayes's Introduc-
tion to Conveyancing,
pp. 497 to 498, Wood v.
White, 4 Mylne's and
Craig's Reports, p. 460,
Wallis v. Freestone, 10
Simons's Reports, p. 225.

Power to charge a
sum in gross, and to
limit a term for securing
the same

Power to Jointure and
to limit a term for se-
curing the same ...

Power to appoint Por-
tions to younger Chil-
dren, and to limit a term
for securing the same

Power to Lease for
twenty-one Years

Power to Lease for
three Lives ...

For these subjects, re-
fer to Sugden on Powers
under their respective
titles.

Power to grant Build-
ing Leases ...

Sugden on Powers,
and 4 Martin's Convey-
ancing, pp. 533 to 535.

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| Power to grant Mining Leases ... | { | Sugden on Powers, under the title Lease, power to, and Mines; 4 Martin's Conveyancing, pp. 137 to 140 and 527. On the law of Mines, see Bainbridge's Work on this subject. |
| Power to grant Licenses to Copyholders to Lease and to do other acts for improving their Hereditaments ... | } | 4 Martin's Conveyancing, pp. 537 to 539, and Scriven on Copyholds, by Stalman. |
| Power to enfranchise Copyholds ... | } | See the last reference. |
| Power to make Partition ... | { | Alnatt on Partitions, 6 Jarman's Conveyancing, p. 586. |
| Power of Sale and Exchange ... | { | Sugden on Powers, under the title Sale and Exchange. |
| Power to Convert and Re-convert ... | } | See the title Conversion, <i>supra</i> . |
| Determination of the Estate or Interest on the Bankruptcy or Insolvency of the Party | } | 4 Martin's Conveyancing, p. 36. |

Power to vary Securities	{ 4 Martin's Conveyancing, p. 315, Lewin on Trustees, pp. 275, <i>et seq.</i> and 413.
On the destruction of Powers	{ Sugden on Powers, Bisset on Estates for Life, pp. 213 to 245.
On the release of Powers	{ Sugden on Powers.
Restriction of Accumulation	{ 39 & 40 Geo. 3, c. 98, and refer to Hargrave on the Thellusson Act. There is an interesting account of its origin in the first chapter of that Work.
Shifting Clause	{ Coke upon Littleton by Hargrave and Butler, p. 327 <i>a. n.</i> II. 1., Fearne's Contingent Remainders, p. 254, <i>n. e.</i> , and the cases of Doe <i>d.</i> Lumley <i>v.</i> Earl of Scarborough, 3 Adolphus's and Ellis's Reports, p. 897, Scarisbrick <i>v.</i> Eccleston 5 Clark's and Finnelly's Reports, Sanford <i>v.</i> Morrice, 11 Clark's and Finnelly's Reports, p. 667.

On the Name and Arms Clause ... { Coke upon Littleton, by Hargrave and Butler, p. 327, *a*, n. II., 2, 3.

Heir Looms ... { Coke upon Littleton, by Hargrave and Butler, p. 18, *b*, n. 7, Ibbetson *v.* Ibbetson, 5 Mylne's and Craig's Reports, p. 26.

Separate Estate and restraint upon Anticipation ... { Tullett *v.* Armstrong, Scarborough *v.* Borman, 4 Mylne's and Craig's Reports, p. 377, Brown *v.* Bamford, 1 Phillips's Reports, p. 620, Baggett *v.* Meux, 1 Phillips's Reports, p. 627.

Settlement of Leaseholds for Lives ... { 4 Martin's Conveyancing, pp. 344, 347, 350, 351, Bisset on Estates for Life, p. 247, *et seq.*

Settlement of Copyholds ... { 4 Martin's Conveyancing, p. 437, and Scriven on Copyholds by Stalman.

- Settlement of Leaseholds for Years upon Trusts, so far as the law permits, to correspond with the Uses and Trusts limited of Real Estate { Coke upon Littleton, by Hargrave and Butler, p. 290, *b*, n. 12, Duke of Newcastle *v.* Countess of Lincoln, 3 Vesey's Reports, p. 387, and Countess of Lincoln *v.* Duke of Newcastle, 12 Vesey's Reports, p. 218.
- Power to change Trustees ... { 2 Sugden on Powers, p. 501, Lewin on Trustees, pp. 457 to 469.
- Covenants for Title { 2 Sugden's Vendors and Purchasers, p. 448 to the end of the Volume.
- On the difference between a Settlement made on the Marriage of a Female Infant as to Real and Personal Estate, and Property which cannot be reduced into Possession ... { 4 Martin's Conveyancing, n. p. 455, 456, Ashton *v.* McDougal, 5 Beavan's Reports, p. 56, Ellisson *v.* Elwyn, 13 Simons's Reports, 309.
- The Settlement being complete, the question naturally arises, who should hold the Deeds relating to the Estate { 9 Jarman's Conveyancing, p. 88, Dixon on Deeds, 2 Sugden's Vendors and Purchasers, p. 111, and Bisset on Estates for Life, pp. 180, 181.

SETTLEMENT, VOLUNTARY, AND GIFT.

On these Deeds see 3 Sugden's Vendors and Purchasers, pp. 280 to 310, 1 Hayes's Introduction to Conveyancing, p. 451, and Roberts on Frauds.

For a Precedent, see 4 Martin's Conveyancing, p. 587.

SHELLEY'S CASE, RULE IN.

For an explanation of this Rule, see Fearn's Contingent Remainders, with 1 Hayes's Introduction to Conveyancing, p. 542, the *rationale* of the rule is expressed in the Provost of Beverley's case, see Bisset on Estates for Life, p. 135, *et seq.*

SPECIAL OCCUPANCY.

See the title *Auter vie*, *supra.*

STAMPS.

On this subject, see the observations on the Stamp Laws relating to Conveyances, in 2 Hayes's Introduction to Conveyancing, p. 497; Tilsley, or Chitty, or Collins, or Coventry on Stamps. In the latter Work there is (see the Appendix, No. 1, 2, 3) a chronological arrangement of the Statutes relating to Stamps.

STOCKS.

See the title Funded Property, *supra*.

SUCCESSION.

On the Evidence of Succession to Real and Personal Property and Peerages, see Hubback on Succession.

SURRENDER.

This subject is treated of in Sheppard's Touchstone by Preston, p. 300 to 311. As to the necessity for a surrender being effected by means of a Deed after the 31st of December, 1844, see 7 & 8 Vict. c. 76, s. 4, and after the 1st day of October, 1845, see 8 & 9 Vict. c. 106, s. 3. For Precedents, see 2 Hayes's Introduction to Conveyancing, pp. 26 to 34, and read the Notes to those Precedents.

TAXES.

There is a Work on this subject styled, The Local Taxes of the United Kingdom, published under the direction of the Poor Law Commissioners, containing a Digest of the Laws, with a summary of

statistical information concerning the several Rates now leviable in England, Scotland, and Ireland. This Volume presents a succinct account of all our Local Taxes, comprehending their various purposes, the Legal Provisions under which they are raised and expended, and the Property they affect.

TENANTS IN COMMON.

See p. 8, *supra*.

TENURES.

On this subject, see p. 8, *supra*, Watkins on Tenures, Wright's Tenures, Gilbert on Tenures, and Blount's *Fragmenta Antiquitatis* or Ancient Tenures of Land, and Jocular Customs of Manors.

TERMS OF YEARS.

See the title Assignment and Merger of Terms, *supra*.

TITHES.

On the Law relating to Tithes, see Shelford's Treatise of Tithes, or the Treatise of White or of Eagle.

TRANSFER OF MORTGAGES.

On Assurances of this kind, see 6 Jarman's Conveyancing, p. 310, and the Notes on the Precedents in that Volume; see also the title Assignment, in Coote on Mortgages, and refer to 7 & 8 Vict. c. 76, s. 9, but which is repealed by the 8 & 9 Vict. c. 106, s. 1, as from the 1st of October 1845.

TRUST DEEDS.

For an explanation of these Deeds, see the title Creditor Deeds, *supra*, and 5 Martin's Conveyancing pp. 554, 569.

TRUSTEES.

On this subject, see Lewin or Hill on Trustees.

VOLUNTARY SETTLEMENTS.

See the title Settlements, Voluntary, *supra*.

WARRANTY.

As to the Law relating to Warranty, see Burton's Compendium, pp. 224, 253, *et seq.*, and Littleton's Tenures, by Tomlins, s. 697, *et seq.*

WILLS.

On this subject, see Jarman on Wills; and points not found there may be so in Powell on Devises; see also the title Legacies, *supra*.

The observations above made on Limitations in Settlements will be found to be applicable generally to Wills.

As to the Probate of Wills, and the duties of Executors and Administrators, see Williams on Executors and Administrators.

On the 1 Vict. c. 26, see Sugden on Wills, and this statute is also treated of in 1 Hayes's Introduction to Conveyancing, p. 341.

On the Extrinsic Evidence in aid of the Interpretation of Wills, see Wigram on Wills.

For a list of Peculiars, and of all Courts and other Authorities in England or Wales, which now are, or at any former period have been empowered to grant Probates of Wills and Letters of Administration, stating the extent of their respective Jurisdictions, and the periods during which they exercise their powers, or are inhibited from exercising the same either by the Bishop, the Archdeacon, or any other authority, and in what places, and in whose custody the respective Wills and Records of Grants of Administration are deposited, see the Return which was ordered by the House of Commons to be printed on the 16th of April, 1829. The Return is made under the title

Probates of Wills. There is a Copy of it in Lincoln's Inn Library; see also on this subject, Sir Harris Nicolas's *Notitia Historica*.

For a List of the Cases in the Prerogative Court relating to the 1 Vict. c. 26, see Edwards's *Abridgment of Cases in that Court*.

For the amendment of the Law respecting Testamentary Dispositions of Property in the Public Funds, and to authorize the Payment of Dividends on Letters of Attorney in certain Cases, refer to 8 & 9 Vict. c. 97.

ON

ANCIENT CONVEYANCES, DEEDS,
AND INSTRUMENTS.

The usefulness of giving some attention to this subject is expressed by Madox in his Preface to the *Formulare Anglicanum* thus:—"The Antiquities of our country afford, as I take it, so noble and ample a field for the exercise of Men's industry, that they who employ themselves that way, may be thought to have chosen a subject worthy of their labour and endeavours. We are, if I am not mistaken, more beholden to our ancestors, than, generally, we seem to believe. To them we do in a sort owe our government and polity, our customs and institutes, our laws and liberties, our churches and altars, cities and towns inhabited, societies, arts and sciences; in effect our whole order and manner of living: in which, though several additions, alterations, or improvements may have been made, by those who have at a greater or lesser distance of

time preceded us, or by ourselves; yet the foundations and main part thereof may, as I take it, be fairly attributed to our ancestors. And if they have (as several discreet persons do believe) delivered to us constitutions full of gravity and wisdom, it may seem ill-natured for us not to acknowledge the obligation by demonstrating, at least, so much respect and deference to their memory, as to inspect the records and memorials they have left behind them; especially considering that we may thence draw no small advantage. I do not speak this out of a fondness for antiquity: and am persuaded I am not singular in my sentiments concerning this matter, for I think it has been a maxim amongst wise nations, to endeavour to establish in the minds of the people a great veneration for their ancestors, and the traditions and constitutions by them delivered: that having been counted a proper medium to produce and preserve that respect which is due to governors and the Laws of each country, to maintain the order and good state of the polity, and to cure that levity and desire of innovation to which unquiet and injudicious men are commonly inclined."

The following extracts from Spelman's English Works are interesting:—

"The first manner of conveying lands from one to another, was not in writing, but by a verbal contract, publicly pronounced by the parties before a multitude of witnesses inhabiting thereabout, wherein the land sold and the consideration given for the same

were certainly declared. So bought Abraham the field and cave of Machpelah of Ephron the Hittite for 400 shekels of silver.—See Genesis, xxiii.

“After the Commonwealth of the Jews was erected, and the lands of every tribe so entailed upon their families, as they might not otherwise be sold than to be redeemed at, or before, the next Jubilee,—Leviticus, xxv., 13,—it became a matter of necessity to have the sale put in writing, that, when the witnesses were dead and gone, or had forgotten the manner of the contract, it might, by the writing, appear for how long it was sold, upon what condition of redemption, and to what tribe or family it was to revert. So Jeremiah bought the field of Hanameel by writing, sealed according to the custom of their law with the common seal, and copies thereof delivered to the parties, containing the particular manner of the sale with the price and name of the witnesses.—Jeremiah, xxxii., 8, *et seq.*

“From these two precedents our Saxon ancestors derive their manner of Conveyances. For where they sold or gave land absolutely, they did it usually without Deed, as that of Abraham; but where they gave it in a special manner, as with a limitation of time, heirs, or how it should be employed, there they did it by writing, as that of Jeremiah's. From this use of them, the lands of that time became divided into two sorts, whereof those without writing were called Folkeland, either for that the assurance of them rested in the testimony of the *folke* or people, or for that they might

be alienated to all people without any impediment. The other, in writing, were called Bokeland, for that they were no way disposable, but according to the tenour of the writing which they called a Boke or Landboke after the phrase of the Jews.—See the Prophet Jeremiah, xxxii., 12. Folkeland and Bokeland amongst the Saxons were much of the nature of Allodium and Feudum amongst the Feudists.”—*Spelman's English Works*, pp. 233, 234.

AN ABRIDGMENT
OF THE
DISSERTATION
CONCERNING
ANCIENT CHARTERS AND INSTRUMENTS
IN
Madox's Formulæ Anglicanum.

Anciently when lands were conveyed, or other important acts done, it seems that Charters or Writings were generally made to testify the same. I do not say, in every case without exception, but generally. It may be indeed that in the times before the Conquest, and, for some time afterwards, lands might be effectually conveyed, by proper ceremonies, without any Charter or writing. Of the times before the Conquest, Ingulf, who lived in the reign of King William I., says, that then “*conferebantur multa prædia nudo verbo, absque scripto vel chartâ, tantum cum Domini gladio, vel galeâ, vel cornu, vel craterâ; et plurima tenementa cum calcari, cum strigili, cum arcu; et nonnulla cum sagittâ.*” So

King Edward the Confessor granted to the Monks of St. Edmund in Suffolk the Manor of Brok, per Cultellum, without any Charter; if what the Abbot of St. Edmund pleaded in the twenty-second year of King Edward III. were true. And in the times after the Conquest, a man might enfeoff another of land, if I mistake not, without Charter thereof made. And so, as it seems, it was held in Bracton's time, and Fleta's. But in fact, I think the most usual way was, for the feoffor not only to receive homage of the feoffee and to give him seisin of the land, but withal to make and seal a Charter of Feoffment.

Charters or Deeds have in several periods of time been called by divers names. Amongst the Anglo-Saxons, a Charter was sometimes called by a Saxon word signifying writing.

An Anglo-Saxon Charter or Donation of land has been likewise called Telligraphum or Telligraphus. It is a barbarous word, made up as it seems of the Latin word Tellus, land, and the Greek one *γράφω*, to write or describe.

But the word Telligraphum seems to have been used as a translation of the Saxon one *lanðhoc*. For in the Saxon Charters that have occurred to me, and are marked on the back of them Telligraphum of such a one; the hand in which such indorsement is written, is generally, as near as I can observe, later than the Norman Conquest.

Chirographum, (they usually wrote it Ci- or Cyrographum,) is another name by which Charters,

as well those of the Anglo-Saxon, (in case the Charters in the Monasticon are genuine), as those of the Anglo-Norman times have been called.

From the time of the Norman Conquest, those which we now call Deeds or Writings, were generally called Chartæ, Charters; this name was brought into common use by the Normans.

It is true the word Chartula does sometimes occur in the Latin Charters of the Anglo-Saxon age. Whether those Latin Charters are genuine and originals, or whether they are not sometimes only translations made after the Conquest, I will not stay to inquire. But it should seem, that Charta in this sense was not a received name in the Anglo-Saxon times; however, I think it is certain, that from the time of the Conquest, it became a word of general use, and so continued long after.

Besides Chirographum and Charta, there are some other general names, by which Charters have been called since the Conquest; as, Conventio, Concordia, Finalis Conventio, and Finalis Concordia, Demises for Life and for Years, Exchanges, Feoffments in Tail, Mortgages, Partitions, Releases, and other Charters, have been sometimes called by one or other of these names.

CONVENTIO ET CONCORDIA.

Conventio et Concordia import Agreement or Accord. According to which agreement, one of the

parties conveyed or confirmed to the other, lands or other rights. The *Conventio et Concordia* seem to have been used in much the same sense. Whether there was any notable difference between them is not known. But several concords made, for aught that appears, in Pais (not in the King's Court) have been anciently called *Concordia*, *Conventio et Concordia*, *Pax et Concordia*, *Finalis Conventio*, and *Finalis Concordia*.

FEOFFMENTS.

From the time of the Conquest, when lands were passed in fee, it was usually done by enfeoffing and delivery of seisin. And the Charter declaring or testifying the enfeoffment was called *Carta Feoffamenti*. Now to enfeoff seems to be no other than to grant a Fief or Fee. For, whereas, as after the Conquest (whether before or not, I am not willing to determine) the greater estates were, as I apprehend, generally held by feudal tenure, or by tenure in some respects of a feudal nature; the person to whom such an estate, or part of it, was transferred, to him and his heirs, was said to be enfeoffed thereof; that is, had a feud or fee granted to him. The greater and more noble estates, and likewise other smaller ones derived out of them, were called Fees. That was a general name, and was attributed to estates very different in respect of quantity or extent.

A Feoffment then, signified the grant of a Feud or Fee. That was the original and proper notation of the word. Nevertheless, by custom it came afterwards to signify also, a grant, with livery of seisin, of a free inheritance, to a man and his heirs; respect being had rather to the perpetuity of the estate granted, than to the feudal tenure. And this has been called a Feoffment in Fee Simple. Out of the Fee Simple there has been derived another kind of inheritable estate, which has been called a Conditional Fee or Fee Tail; in the granting or raising whereof, a Feoffment has been likewise used.

The ancient Feoffments, I think, generally run with the words *Dedisse concessisse et confirmasse*, or *donasse*, or some one or others of them, afterwards the word *Feoffavi* was sometimes inserted. The ancient Feoffments were likewise usually made *pro homagio et servitio* of the feoffee, to hold of the feoffor and his heirs. But after the Statute of *Quia emptores terrarum*, by which men were forbidden to make their Feoffments, to hold of themselves; Feoffments were made, *Ad tenendum de capitalibus Dominis fædi*, and without the words *pro homagio et servitio*.

In the early times after the Conquest, Charters of Feoffment seem to be very various, and unsettled in point of form. And, for that reason moreover, I shall not offer to determine what were in those times the essential parts of a Charter of Feoffment. Afterwards, in the reign of King Edward I., and the subsequent times, Feoffments were, if I am not mis-

taken, usually drawn up in a more uniform way. It is true, a very learned lawyer (a) says, "There have been eight formal or orderly parts of a Deed of Feoffment," which are enumerated. But in that case, he is, I conceive, to be understood of the Feoffments that were made in or after those times, wherein the model or form of them became in some sort settled (b).

Sometimes Charters of Feoffment or other writings have been made by *femes covert*: but generally, I think with the consent of their husbands.

The ancient Feoffments and other sorts of Charters were many times made by assent of the feoffor's wife, or *assensu* of such a one heir of the feoffor, or plurally *consensu hæredum meorum*: in which cases, very often, the charter is sealed by the feoffor only. If one may be allowed to conjecture, perhaps the words importing the heir's consent were used where the lands granted had descended to the feoffor from his ancestors, or, where by usage the land retained that property of the ancient Bokeland or Bôcland, not to be alienable from the kindred, *extra cognationem*, without the consent of the heir, in case such restriction had been contained in the Landboke or Landboc or original Charter of Purchase: however in this I affirm nothing. Again, sometimes the next heir joins in the Feoffment or other Charter. At other times the Feoffment has

(a) Coke's first Institute, 6 a.

(b) Several forms anciently used for the limitation of a Fee Simple are here added.

been made expressly without the concurrence of the heir.

In the ancient Charters of Feoffment there was usually inserted a general warranty, *contra omnes homines*, or *omnes gentes*, against all men. But in that case the phrase was very much varied.

To the warranty there was often added the oath of the party. Both the warranty and the oath of the party are frequently found in Charters of divers kinds, as well as in Feoffments.

In Feoffments there was frequently inserted a clause, that if the feoffor could not warrant the land whereof he made his Charter, (that is, I suppose, if the feoffor's title were defective or the feoffee came to be afterwards evicted) then he should give other land to the value in exchange either of his lands at large, or of his lands in such a place.

Sometimes there has been double caution given in this case, that if the feoffor could not warrant the land so given in exchange, then he should give a second exchange, and sometimes the feoffor or grantor obliged himself, if he could not warrant the thing granted, to make restitution to the feoffee or grantee.

Besides the Feoffments made to one and his heirs in fee simple, there were anciently Feoffments made, importing the grant of a conditional fee, or, as it has been called since the Statute *de Donis Conditionalibus*, a fee tail. And, in this case, the words anciently used were sometimes various: as,

There were divers ways of giving seisin; as, *Per Fustem et per Baculum, per Haspam, vel Annulum*, by other symbols, either proper in their own nature, or accommodated by use or designation of the parties to signify a transferring of the possession or seisin from the feoffor to the feoffee (a). Sometimes the Feoffment was made and seisin given upon the land. Sometimes seisin was given in the absence of the feoffor, by somebody deputed by him for that purpose.

There was the like usage in Bracton's time. When the King enfeoffed any one, he would many times issue his writ, precept, or letters, to command his sheriff, or provost, or other officer to deliver seisin accordingly; and I think the great men did the like. It seems that such kind of precepts were likewise sometimes issued by the King or by the great lords to restore to feoffees or grantees lands whereof they had been disseised, or to quiet them in their possession. In the more modern times it seems to have been the practice for the feoffor, if he did not give seisin in person, to make a letter of attorney, which was either inserted in the Charter of Feoffment, or made in a distinct writing to some person or persons, to give seisin to the feoffee according to the Feoffment.

Sometimes the party performed the enfeoffment

(a) The form of delivery of seisin being that the staff, stick, &c., were given to the feoffee, and the following or some like words were used: "I deliver this to you in the name of seisin of all the lands and tenements contained in this deed. To Have and To Hold according to the form and effect of the same deed."

in the King's Court, sometimes before a Bishop, or Justices Errant, or the Barons of the Exchequer; and oftentimes the Charters in this or like cases were read in the King's Court or before the Barons of the Exchequer and enrolled. But besides Feoffments, other sorts of Charters have been, in ancient time, frequently sealed and ratified in the King's Court. Sometimes after a Feoffment had been made in the usual manner, and a Chirographum or Charter thereof duly sealed, the feoffor, at the feoffee's instance, would come into the King's Court, and make an acknowledgment that he had enfeoffed such an one of such land; and sometimes the feoffor or his superior lord, would receive in the King's Court, or before the Barons of the Exchequer, the homage or fealty of the feoffee.

FINAL CONCORDS.

Final Concords may be considered in the next place. Perhaps these may not be, in strictness, Charters. Yet seeing a fine has been looked upon to be of the nature of a Feoffment of Record, and has, to several purposes, the force of a charter; and, especially if what I shall by-and-by propose be true; it may not improperly come to be considered here.

I suppose it is beyond doubt, that fines were very anciently used in this Kingdom (*a*). But I shall not take upon me to assign positively the age when they were first brought into use.

(*a*) There are in Madox's *Formulare Anglicanum* some of great antiquity.

I shall at present content myself to go no further back for the original of fines, than to the Norman Conquest. Soon after that time we meet with fines properly so called. Let us proceed therefore to consider briefly the nature of Final Concords, and in what manner probably they were in ancient time transacted, or, as we usually call it, levied. Ranulf de Glanvill, the King's Justiciar in the reign of Henry II., speaks very significantly of them *Contingit autem multotiens loquelas motas, in Curia Domini Regis, per Amicabilem Compositionem et Finale Concordiam terminari, sed ex licentiâ Domini Regis vel ejus Justiciariorum*: And says it is called *Finalis Concordia eo quod Finem imponit negotio, adeo ut neutra pars litigantium ab eo de cætero poterit recedere*. Here we may see the nature of a fine that it was a Final Concord made in the King's Court upon a *Loquela mota*, by license of the King or his Justiciars: these properties of a fine are obvious to any man who does but read, *Hæc est Finalis Concordia, Facta in Curia Domini Regis, unde Placitum fuit inter eos*. But the nature of a fine may be, perhaps, more clearly understood from the ancient manner of transacting it. Concerning which I would beg leave to propose some conjectures, which I submit to the judicious reader, that is to say, the parties being accorded concerning the matters in variance and having thereupon mutually sealed a Chirographum (a) importing the same, came into the King's Court, either in person or by somebody

(a) For information as to this, see the title Chirographum, *infra*, p. 93.

positum loco suo ad lucrandum vel perdendum and there recognized the Concord before the King's Justices, which Concord was, upon paying a fine to the King, enrolled in the King's Court; or else the parties would make an accord before the King's Justices concerning the matters in variance and have the Chirographum drawn up in Court importing the same; a counterpart whereof was delivered to each of the parties; which accord was recorded in the same Court, or perhaps both in that and some other of the King's Courts.

Sometimes after the parties had come to a Final Concord, if one of them endeavoured to recede from it, the other party would get the Crown to interpose, in order to enforce, either by royal authority or otherwise, the performance of the Concord.

What has been said about the manner of passing fines, is to be understood chiefly of the more ancient times. But notwithstanding what I have offered concerning the use of the Chirographum in that affair, I do not affirm that was the only or constant course of passing fines in ancient times. It seems, from the instances above mentioned, that that course was at least sometimes followed. In process of time, if I am not mistaken, fines came to be usually passed without a Chirographum intersealed, upon a *Placitum* commenced by the King's writ as by writ of convention or covenant, assize of *Mort d'ancestor*, *Warrantia Chartæ*, or other writ brought in the King's Court: sometimes it does not well appear by what writ the plea, upon which the Concord is had,

was summoned. But even then, when the Chirographum was used in passing or transacting the fine, the Concord might, peradventure, be grounded in some sort upon an original writ brought in the King's Court. For there being in the case a *Placitum*, or plea moved in the King's Court, it is likely that plea was founded upon some original writ, seeing it has been long admitted, for a rule in the common law, that generally speaking a plea could not be held in the King's Court without his writ. After the intersealing of a Chirographum became disused in passing of Fines there seems to have still remained some footsteps of the ancient practice in that respect; so as that a Chirographum, or foot of the fine, has been, I think, from time to time made, and is reputed, a part of the fine, which practice obtains even at this day; and the officer that makes them is still called *Chirographarius*, the Chirographer (a). From the time of King Edward I., in whose reign as I take it, the first statute now extant touching fines, was made, and, perhaps for some time before, fines have been usually levied in a pretty uniform way; and most commonly I think upon a *Placitum Conventionis* summoned between the parties by writ of covenant.

The design and purport of Final Concords seem to have been anciently as various, as the matters litigated between men, or the rights to be accorded

(a) As to the office of Chirographer, see Bayley on Fines and Recoveries, p. 7, but these are now abolished by 3 & 4 Wm. 4, c. 74, see p. 35, *supra*.

between them, that is to say, by fines men might make grants in fee simple, or fee tail, releases, exchanges, partitions or conventions relating to lands or other rights: in a word, might do by them, whatever they might do by the Chirographum.

The Final Concord seems to have sprung originally from the Chirographum, and to have borne for a long time a near resemblance to it. In truth there are several ancient conventions, made by way of Chirographum, to be met with, which are so like to the Final Concords we are speaking of, that it is not easy, I conceive, to distinguish one from the others. These conventions are, as hath been observed, sometimes styled Concords, and have been made before the King or his Justices, upon a plea moved between the parties.

CONFIRMATIONS.

Concerning Confirmations much need not be said. If I am not mistaken, the most ancient Confirmations, made after the Conquest, often run like feoffments, with the words, *Dedi*, or *concessi*, and *confirmavi*: and are distinguishable from the feoffments, chiefly by some words importing a former feoffment or grant; as where they run, *Dedi*, or *concessi et confirmavi*, such lands *sicut Charta facta* to such a one (either the confirmatory or his ancestor) *testatur* or the like. In ancient time when feoffees were frequently dis-seised of their lands upon some suggestion or other,

Charters of confirmation seem to have been in great request. For, in the early times after the Conquest, we meet with so many Confirmations successively made to the same persons, or their heirs, or successors, of the same lands and possessions, that it looks as if men did not then think themselves secure in their possessions against the King or other great lords, who were their feoffors, or in whose fees their lands lay, unless they had repeated Confirmations from the King or his heirs or successors, or the other great lords or their heirs. These Confirmations, very anciently, seem to have been sometimes made, either by precept or writ from the King, or other lords, to put the feoffees, or their heirs, or successors, into seisin after they had been disseised, or to keep them in their seisin undisturbed, or else by Charter of express Confirmation.

RELEASES.

The ancient ones are, I conceive, usually distinguishable from Feoffments by the words, *Quietum clamavi, remisi, relaxavi, &c.*: to which words, others were sometimes joined; such as *Abjuravi, Forisjuravi, Forisaffirmavi, &c.* Upon a Charter of Release, seisin has been delivered to the releasee, or an act done that was somewhat like giving seisin. Releases have been sometimes made in the way of concord or convention or by Chirographum. Lastly, at the time of making the Release, the re-

lessor would often deliver up to the releasee, the muniments relating to the land released.

DEMISES.

After giving several examples of leases, Madox proceeds thus: The ancient ones were many times made, like as Charters of other kinds, in the way of convention, by Chirographum: were often strengthened by a general warranty from the demisor, and sometimes by the oath of one or both of the parties.

Again upon a Demise or grant at ferm, the fermour has had seisin given to him, and sometimes the King's fermour had, in his grant, power of tallaging the men within his ferm.

THE CERTIFICATORIUM AND NOTITIA.

The Certificatorium as also the Notitia was an Instrument formerly pretty much in use. These were of divers sorts; sometimes the King by his Charter or Rescript would certify or declare touching matters. Sometimes the lord of the fee would declare transactions had between his vassals. Bishops or others, have certified that they were witnesses to such or such transactions. Bishops have certified Charters of other men either for perpetuation of them when they were decaying, or where there was danger in carrying the originals from place to place. The Chapters of Churches, and other Ecclesiastics,

have done the like: and civil officers have certified touching matters in litigation; and so have even private men. Notarial Instruments of attestation have been likewise frequently used.

By these Notarial Instruments, the tenours of Regal Charters, of Papal Bulls, Episcopal Ordinations, Feoffments, or Donations of private men, and in effect, all sorts of Charters or writings have been wont to be certified.

EXECUTION OF CHARTERS.

In many instances, Charters have been sealed in courts or public places. The witnesses to Charters seem to have been anciently, for the most part, men of good note and condition, and, very often, persons of the neighbourhood where the Charters were executed. In the country, they are frequently attested by gentlemen and clergymen of the county; and where they were executed in cities or towns, they are often attested by the Provost, Mayors, Bailiffs, or Civil Officers of those cities or towns.

In the Saxon times, before the reign of King Edward the Confessor, the usage in this kingdom was, for aught I know, to ratify their Charters by subsigning their names with holy crosses (*a*). This was done both by the parties and the witnesses. There are many instances in the mode of doing it

(*a*) This was accounted a most solemn mode of confirmation.

to be seen in the *Monasticon Anglicanum* (a). It is generally thought that King Edward the Confessor first brought into this kingdom the way of affixing to Charters a seal of wax.

INDENTING.

Indenting was so called from the cutting *in modum dentium*, that is to say, when a Charter was made consisting of two parts, both of the same tenour, the one part and the other was so cut, most commonly at the top, indentwise, that, when the two parts came to be joined together, they would appear by the coincidence in the cutting to be parts of one another. As the most ancient Chirographa were, I think, usually cut through the word or letters Chirographum in a straight line; so, afterwards, Indentures were usually cut through the letters Chirographum, or else some other word or initial letters, indentwise; the Charter whether cut in a straight line or indentwise, retaining the name of a Chirographum; at last they indented without cutting through any letters at all, as the usage is at this day; and then the name Chirographum seems to have gone into disuse. The ancient Indentings were usually, as I remember, acute or sharp, *instar dentium*, whence they had their name. In the more modern times, I think they generally indented waivy, *in modum undularum*, as we now

(a) There are some also in Madox's *Formulare Anglicanum*.

most commonly do. I do not perceive that Indenting of the Chirographa became a general practice before the reign of King Henry III. In whose reign, as I take it, Indenting became more usual than the rectilinear cutting of the Chirographum.

CHIROGRAPHUM.

It was, if I am not mistaken, a writing or deed, consisting most commonly of two parts, both of the same tenour, whereof one of the parties concerned was to have one part, and the other the other part; for which purpose the deed was written, I suppose, twice upon the same piece of parchment; and between the body or content of each part, the word Chirographum was written in capital letters, and cut through in the middle of those letters, so that when the two parts of the Chirographum were parted by the knife, one part would shew one-half of those capital letters, and the other part the other half of them. When the two parts came to be joined together as they were before the cutting asunder, the word or letters cut through would appear entire. We are told, indeed, by a very learned lawyer (*a*), and, after him, to the same purpose, by others, that, of ancient time, a deed indented was called Charta, Chirographata, or Charta Communis, because each party had a part; but, if I am not mistaken, it will

(*a*) Coke, in his first Institute, 143 *b*.

be evident from several instances (*a*), that anciently there were many Chirographa that were not indented at all; and, therefore, that an Indenture and a Chirographum, or Charta Chirographata, were not altogether the same thing. The use of Chirographation and Indenting was to avoid falsity and counterfeiting.

DATES OF DEEDS.

Of the Charters made in the Anglo-Saxon times, some are dated, some without date. For a considerable time after the Conquest, some Charters are dated, others, and I think the far greater number, not dated. Whether the dates were casually or designedly omitted, I cannot affirm.

In the case of dating, there was, in practice, a great variety used in those times in which the dates were ordinarily omitted. In those times, Charters are sometimes dated even with a redundancy. A Charter of King Egfrid is dated *Anno ætatis suæ xl., Regni XV.* (*a*). Sometimes the dates have been made from some remarkable revolution or occurrence. Some Charters, before the time it became usual to date, are dated with the year of our Lord only: others with the year of our Lord and of the King: others, such a Feast day, or such a month, without naming any year. Bishops sometimes dated their Charters by the year of their own pontificate,

(*a*) Several are given in Madox's *Formulare Anglicanum*.

sometimes also with the year of our Lord, or of the King, or of the Pope's Pontificate. Llewelyn, Prince of Wales, before the union of that principality to England, dates A. D. 1198, *et Principatus mei anno decimo*.

WITNESSES TO, AND ADDRESSES OF CHARTERS.

In ratifying or, as we call it, executing Charters, so great a regard was had, in ancient time, to form and solemnity, that, as Charters were executed before many witnesses, so the witnesses' names or many of them were usually inserted in the Charter and made a particular clause or part of it which clause has been called the *Hij's Testibus*. In that case the clerk or writer of the Charter used to write down the witnesses' names, and not the witnesses themselves their own names, as, at this day, they do upon the back, or at the foot, of the deed. For, in all the ancient original Charters, made since the Conquest, that I have seen, both the body of the Charter and the *Hij's Testibus* are, for aught that I can observe, written in the same hand, and, in a continued line or context. Charters were then commonly executed with so much notoriety and publicness, that there was no occasion for the witnesses to set their own names; that being done by the clerk in the presence of them all. Besides it might be, that in those ages, many of the witnesses could not write. What rule or measures in particular they went by in ancient

times in choosing or admitting witnesses to attest their deeds, I am not willing to determine. But the usage of the elder times in that case has differed, I think, in some respects from that of the latter. Anciently wives were sometimes witnesses to the Charters of their husbands, and monks, or other religious persons, to the Charters made by or to their own house. Sometimes the King himself has been a witness to the Charters of private men, his subjects. Sometimes the King's Justices have been witnesses, and sometimes the attestation has been expressed in unusual, I think I may say, fantastical terms: as, *Teste Deo et Angelis suis, Teste Deo et utriusque partis Capitulo* (a). The order observed in setting down the names of the witnesses was, I think, in ancient time usually this; first were named Kings or Queens, then Archbishops, Bishops, Abbots, and other prelates, then the temporal nobility and others. Nevertheless this order has not been in all cases so exactly observed, but that now and then men have varied from it.

As the subjects of England were anciently wont to use in their Charter the clause of *Hij's Testibus*, so also the King used the like clause in Charters sealed with his royal seal; for, according to the usage of ancient times, the Kings themselves seldom did acts of moment but with great solemnity. But the number of the witnesses named in the Charters of the Kings has been, I think, various. Sometimes they have been many, and other times few, and the

(a) Other instances are given in Madox's *Formulare Anglicanum*.

most ancient regal Charters made since the Conquest are found attested in such manner, that it may seem likely there was, with reference to the number of the witnesses, no set rule observed about the attestation. King Richard I. and King John, if I mistake not the time, introduced another kind of *Teste*, which they sometimes used in their Charters, and which has been retained by the succeeding Kings of England; that was the *Teste Meipso*, which clause, if I mistake not, was at first, and for some space of time after its introduction, used chiefly in writs or mandatory precepts, but afterwards in more important cases. However, the use of the *Teste Meipso* in some cases did not exclude the use of the *Hijis Testibus* in other cases; sometimes the *Teste Meipso* and sometimes the *Hijis Testibus* having been used by the succeeding Kings even to the reign of King Henry VIII.; but, in the reigns precedent to the time of the King lastly named, the *Teste Meipso* in letters patent of grant, as well as writs or precepts, most frequently. The clause *Teste Meipso* is, as some say, peculiar to the Kings of England, and hath not been commonly used by any foreign Prince. Pope Pius, it seems, laughed at this as an absurd usage, but, whether with reason, let others judge, for, seeing it has been common enough for the ancient Kings of England to make Charters or precepts under their royal seal with a *Teste* of one single person, some Bishop or great man of their court, their subject and inferior, what should hinder but that the King might, without

being supposed liable to the imputation of absurdity, conclude his Charter with *Teste Meipso*, as well as with *Teste Ricardo Basset*, or *Roberto de Ver*, or such like; the *Teste Meipso* was, it seems, sometimes used by the King's High Justiciar.

Charters having been usually formed in the way of letter, it has been customary to use at the beginning of them, a sort of direction or compellation. These compellations have been very various; sometimes general, as *Omnibus Hominibus suis Francis et Anglis*, &c.; *Omnibus S. Matris Ecclesie filiis*; *Sciant præsentes et futuri*; *Omnibus ad quos præsentes Literæ*, &c., or the like. Sometimes particular, as *Vicecomiti Illi*; *Episcopo Illi et Vicecomiti Illi*; *Justiciario et Vicecomiti Illi*; *Dapifero Illi*; *Præposito Illi*; and the like; to which were sometimes subjoined words of general compellation. It is endless to enumerate the various sorts of compellation which have been used. In general, it seems, the forms of compellations were such as suited to the condition of the lords and donors that used them, to the country where their estates, or the estates of their donees, lay, and to the relation there was between them and their officers and vassals. For instance, the King, who was Sovereign Lord of the fee of this realm, would use a general compellation, extending to several orders of men, to Archbishops, Bishops, Abbots, Priors, Earls, Justiciars, Sheriffs, Barons, Bailiffs, Provosts, &c., and to all his men, *tam Francis quam Anglis*; he having under him, men of all these sorts or degrees. So the great lords,

having in their honours or baronies, homagers, some of which were French and others English, would direct, *Hominibus suis tam Francis quam Anglis* within their Barony, or within the county or place where the lands granted lay; or, in general terms, to all their men. The lords, who lived in or near Wales and had vassals that were Welsh men as well as French and English, would direct *Hominibus suis Francis et Anglis et Walensibus*. So other lords, in resembling cases. These sorts of directions, viz., *Omnibus hominibus suis, &c.*, were used chiefly, as it seems, in the early times after the Conquest, and by degrees went into disuse; thus the King of Scots, circa, A. D., 1138, directs, *Episcopis, Abbatibus, Comitibus, Vicecomitibus, Baronibus, &c., totius Terræ suæ, Francis, et Anglis, et Scotis, et Galwensibus* (a). In the Charters of subjects, the form of directing *Hominibus suis Francis et Anglis*, became in process of time disused; and then, I think, the usual directions were *Omnibus S. Matris Ecclesiæ filiis; Sciant præsentis et futuri, &c.*, and such like. To them succeeded the modern forms, which are so well known that they need not be here mentioned.

(a) Other instances are given by Madox.

THE END.

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